



FAIR POLITICAL PRACTICES COMMISSION

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DEC 17 2009
COUNCIL MEMBER
DONNA FRYE

December 14, 2009

Mayor Jerry Sanders
City of San Diego
City Administration Building
11th Floor, 202 C Street
San Diego, CA 92101

RE: FPPC Case No. 090822

Dear Mr. Sanders:

The Fair Political Practices Commission (FPPC) enforces the provisions of the Political Reform Act (the "Act"),¹ found in Government Code Section 81000, and following. On November 26, 2009, the FPPC received a complaint alleging that the City of San Diego Community Parking District Advisory Boards (the "Boards") do not have a conflict of interest code despite the City of San Diego's request, and receipt of, an advice letter issued by the FPPC's Legal Division (the *Calabrese* Advice Letter, No. I-08-067, copy enclosed), which stated that the Boards are local government agencies and, as such, are required to adopt a conflict of interest code. The City of San Diego City Attorney's Office has confirmed that currently there is no conflict of interest code in effect for the Boards. According to documents received by our office from the City Attorney's Office, the City Attorney's Office had drafted a proposed conflict of interest code language and submitted it in 2008 to the San Diego City Council, as the conflict of interest code reviewing body for the Boards. (See GC § 82011(c) for the definition of a "city code reviewing body.") The City Council was required, within 90 days, to approve, revise, or return the conflict of interest code for specific revisions that would be then required to be submitted back to the City Council within 60 days. (GC § 87303.)

As stated in the *Calabrese* letter, those Boards created after January 1, 2003, which, per the draft conflict of interest code submitted to our offices by the San Diego City Attorney's Office, are the Old Town, Pacific Beach and La Jolla Boards, were subject to the immediate filing requirements of Section 87302.6. Members of those boards, including those who have

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in sections 18109 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

resigned, or are not currently serving, must file statements of economic interest even in the absence of a conflict of interest code. (GC § 87302.6.) Further, the filing officer for the Statements of Economic Interests (Form 700) for the City of San Diego was responsible for supplying the Form 700 to these Board members and was also responsible for determining whether the statements were filed. (GC §§ 81010 and 82027; Regulation 18115(a)(1) and (2).) Any Board members who did not file statements after receiving notification should have been referred by the filing officer to the appropriate agency, which would include the FPPC. (Regulation 18115(a)(6)(B).)

In order to close this case without further action (see GC §§ 87304 and 87305), a conflict of interest code for the Boards must be approved by the San Diego City Council and a copy submitted to the FPPC by March 15, 2010. If, as indicated in our communications with the City Attorney's Office, you wish to request further advice on this matter from the FPPC's Legal Division, the March 15, 2010, timeframe should accommodate that contingency. Failure to comply may result in an enforcement action, including monetary penalties of up to \$5,000 for each violation. If you need guidance regarding the conflict of interest code approval process, please call the FPPC's Toll-Free Advice Line at 1-866-275-3772 or refer to our website at www.fppc.ca.gov.

If you have questions regarding this matter, please contact me at (916) 322-8241.

Sincerely,



Adrienne Korchmaros
Political Reform Consultant
Enforcement Division

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cc: Council President Ben Hueso
Council President Pro Tem Kevin Faulconer
Councilmember Carl DeMaio
Councilmember Marti Emerald
✓ Councilmember Donna Frye
Councilmember Todd Gloria
Councilmember Sherri Lightner
Councilmember Tony Young
Leo Wilson
Jan I. Goldsmith, City Attorney for the City of San Diego
Scott Hallabrin, General Counsel, FPPC